

Meeting Date: 08-26-08

AGENDA REPORT

Agenda Item # 7A.1

Santa Clara

City of Santa Clara, California



DATE: August 6, 2008

TO: City Manager for Council Action

FROM: Director of Planning and Inspection

SUBJECT: Planning Commission Recommendation to Adopt the Resolution to Approve Rezone from R1-6L (Single Family Residential) to R2-7L (Duplex) to Allow the Construction of a Second Two-Story Single Family Home at 4041 Davis Street (APN: 104-12-079)

EXECUTIVE SUMMARY:

On March 12, 2008, the Planning Commission held a public hearing to review the proposal to rezone the property at 4041 Davis Street (APN: 104-12-079) from R1-6L (Single Family Residential) to R2-7L (Duplex) and Variance to reduce minimum lot width requirement for duplex zoning from 65 to 50 feet and the minimum front yard setback requirement from 20 feet to 15 feet for the encroachment of an existing, nonconforming porch. This application included demolition of an existing accessory dwelling unit and two-car garage on the property in order to construct a new two-story residence and to retain an existing two-story residence on the project site.

Following public testimony on March 12, the Planning Commission continued the project up to 90 days for redesign. The revised project reduced the second floor building mass by removing one bedroom and a laundry room and converted the proposed garage to open carports. The Planning Commission reviewed the revised plan on June 25, 2008, and continued the project to July 23, 2008 to allow the property owner to consider an application for a General Plan Amendment. The property owner met with staff, and it was determined that the applicant could proceed with the project without a General Plan Amendment. At the public hearing on July 23, 2008, following public testimony and reconsideration of the evidence, the Planning Commission recommended Council approve the rezoning request as defined in the attached City Council Resolution. The Planning Commission also approved the variance requests to reduce the minimum lot width requirement for duplex zoning from 65 to 50 feet and the minimum front yard setback requirement from 20 feet to 15 feet for the encroachment of an existing nonconforming porch.

The General Plan designation for the project site is Single Family Detached which allows up to eight dwelling units per acre on a single lot. The project is an infill residential development that increases residential density from eight to 12 units to the acre on a single lot. As a Charter City, the Council may allow an increase in residential density above the density assigned to the property by the General Plan. Under the Subdivision Map Act, subdivision of the property would be restricted as consistency between zoning and General Plan are required.

Notice of public hearing for the rezoning action was sent to property owners within a 300-foot radius of the subject property for the City Council meeting of August 26, 2008, in accordance with required City and State noticing procedures. The resolution, the Planning Commission minutes and staff report of July 23, 2008, along with the applicant's statement and letters of support, are attached. Planning Commission minutes excerpts from March 12 and June 25, 2008 and the staff report from March 12, along with the May 23 and June 27, 2007 minutes and May 23 staff report are available in the Council offices. Complete administrative records for this

Date: August 7, 2008
To: City Manager for Council Action
From: Director of Planning and Inspection
Subject: 4041 Davis St.

request are available in the Planning Division Office located at 1500 Warburton Avenue, Santa Clara, and can be viewed during normal business hours.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

The project would replace a one-bedroom accessory dwelling unit and detached two-car garage with a three bedroom single family residence and attached carport. The carport would provide two covered parking spaces for the new residence and one covered parking space for the existing single family home on the same lot. Additional uncovered parking may be provided on-site.

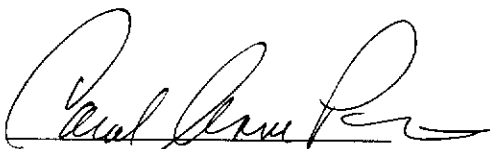
ECONOMIC/FISCAL IMPACT:

There is no cost to the City other than administrative staff time and expense.

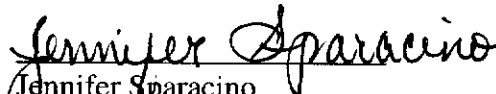
RECOMMENDATION:

That the Council, pursuant to Planning Commission recommendations, adopt the Resolution to Approve the Rezone of 4041 Davis Street from R1-6L (Single family Residential) to R2-7L (Duplex) to allow the construction of a second two-story single family home at 4041 Davis Street (APN: 104-12-079), subject to conditions.

APPROVED:



Kevin L. Riley, AICP
Director of Planning and Inspection


Jennifer Sparacino
City Manager

Documents Related to this Report:

- 1) City Council Resolution (with Conditions of Approval and Plan Set attached)
- 2) Planning Commission Minutes Excerpts of July 23, 2008
- 3) Planning Commission Staff Report of July 23, 2008 (without attachments)
- 4) Statement of Justification and Correspondence
- 5) Planning Commission Minutes Excerpts of March 12, 2008, and June 25, 2008
- 6) Planning Commission Staff Report of March 12, 2008
- 7) Planning Commission Minutes Excerpts of May 23, 2007 and June 27, 2007
- 8) Planning Commission Staff Report of May 23, 2007

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SANTA CLARA, APPROVING A REZONE FROM R1-
6L (SINGLE FAMILY RESIDENTIAL) TO R2-7L
(DUPLEX) AT 4041 DAVIS STREET**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA,
CALIFORNIA, AS FOLLOWS:**

WHEREAS, Mr. and Mrs. Kishin Kanuga ("Applicant"), submitted an application for a rezone, the real property commonly known as 4041 Davis Street and legally known as Santa Clara County Assessor's Parcel No. 104-12-079, from R1-6L to R2-7L to demolish the existing accessory dwelling unit and detached garage and construct a new two-story single family residence on the Property, with an existing single family residence; a variance allowing a reduction in the minimum lot width requirement of 65 feet to 50 feet in width for duplex zoning; and a reduction in minimum front yard setback requirement of 20 feet to 15 feet to allow encroachment of an existing nonconforming structure ("Project");

WHEREAS, the Property is currently zoned R1-6L and has a single family residence, accessory dwelling unit, and a detached garage;

WHEREAS, the City of Santa Clara's Planning Commission ("Commission") considered the application at a duly noticed public hearing on July 23, 2008, and made the following findings, approvals, and recommendations:

1. CEQA Exemption and Findings. The Project is exempt from California's Environmental Quality Act ("CEQA") under CEQA Guideline 15303(a) because the Project is for the construction of one, single family residence in a residential zone.
2. The Commission Recommends that the Council Approve the Rezone. The Commission recommends that the Council conditionally approve a rezone from R1-6L to

R2-7L, to demolish an existing accessory dwelling unit and detached garage, to allow construction of a new single family residence on the Property with an existing single family, subject to the Conditions of approval attached hereto as Exhibit A.

3. Variances and Findings. Santa Clara City Code Chapter 18.108 governs the approval or denial of variances in the City. The Code of the City of Santa Clara, section 18.108.030 requires a public hearing in order to grant a variance. The Commission found that: (i) there are unusual conditions applying to the land or building which do not apply generally in the same district because the Property has a substandard lot width; (ii) the granting of the variance is necessary for the preservation and enjoyment of substantial property rights because the replacement of the existing accessory dwelling unit and detached garage with a single family residence and attached carport will enhance property values; (iii) the granting of such variance shall not, under the circumstances of the particular case, materially affect adversely the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood of the applicant's property, and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood because this is the replacement of an existing accessory dwelling unit and detached garage with a single family residence and attached carport; and (iv) that the granting of the variance is in keeping with the purpose and intent of this Chapter 18 of the Code of the City of Santa Clara because the Project replaces an existing accessory dwelling unit and detached garage with a single family residence and attached carport.

5. Variance Approvals. Based on the findings set for the above, the Commission approved the following variances: (i) a reduction in the minimum lot width requirement

of 65 feet to 50 feet in width for duplex zoning, and (ii) a reduction in the minimum front yard setback requirement for 20 feet to 15 feet to allow encroachment of an existing structure; and

WHEREAS, this Project was set for a duly noticed public hearing before the City Council of the City of Santa Clara on August 26, 2008.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, AS FOLLOWS:

1. Incorporation. The Council incorporates the Commission's recommendations, actions, and findings, and the recitals set forth above, into this Resolution.
2. Rezone Approval and Findings. The Council accepts the Commission's recommendation and approves the rezone from R1-6L to R2-7L, subject to the Conditions of Approval attached as Exhibit A. The Council finds that the proposed zone change will conserve property values by allowing private investment and improvements in the orderly development of the property; will protect the existing character and stability of the area because adequate on-site parking will be provided and the building design will be compatible with existing structures in the surrounding neighborhood; and will promote the orderly and beneficial development of the area because the property will be improved. The Council further finds that the proposed zone change is appropriate for the general welfare of the City because it will increase home ownership opportunities.
4. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City Council of the City of Santa Clara hereby declares

that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ____ DAY OF _____, 200__, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: _____
ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

Attachments Incorporated by Reference:

1. Exhibit A: Conditions of Approval
2. Exhibit B: Plan Set

I:\PLANNING\2008\Project Files Active\PLN2007-06257 4041 Davis St\CC Reso 082608.doc

EXHIBIT A
PLN2007-06257 CONDITIONS OF APPROVAL

GENERAL

1. If relocation of an existing public facility becomes necessary due to a conflict with the developer's new improvements, then the cost of said relocation shall be borne by the developer.

ENGINEERING

2. Obtain site clearance through Engineering Department prior to issuance of building permit. Site clearance will require payment of applicable development fees. Other requirements may be identified for compliance during the site clearance process.
3. If any work is proposed within the public right-of-way and/or public easement, which is to be performed by the Developer/Owner, the general contractor, and all subcontractors, it shall be included within a **Single Street Opening Permit** issued by the City Engineering Department. Issuance of the Street Opening Permit and payment of all appropriate fees shall be completed prior to commencement of work, and all work under the permit shall be completed prior to issuance of occupancy permit.

ELECTRIC

4. Electric service shall be overhead. See Electric Department Rules and Regulations for available services.
5. Overhead services shall be installed per City of Santa Clara Electric Department standard OH-550 and MS-G7 latest revision.
6. All electric meters and services disconnects shall be grouped at one location, outside of the building or in a utility room accessible directly from the outside. A double hasp locking arrangement shall be provided on the main switchboard door(s). Utility room door(s) shall have a double hasp locking arrangement or a lock box shall be provided. Utility room door(s) shall not be alarmed.
7. Installation of underground trench may be required when construction begins.

WATER

8. All sanitary sewer lateral(s), either proposed or existing, shall be equipped with a clean-out at the property line.
9. Developer is advised that adequate plumbing must be designed and installed for the proposed development and the affected building, or reduced residual water pressure may be experienced due to added water demand.

FIRE

10. In existing residential buildings and in residential buildings that undergo alterations, repairs or additions where a permit is required, smoke alarms may be solely battery operated. Smoke alarms shall be located in accordance with CBC Section 310.9.

11. Address numbers shall be on the building and visible from the public street.

PLANNING AND INSPECTION

12. Obtain required permits and inspections from the Building Official and comply with the conditions thereof.

13. Building permits must be obtained for the current front porch of the primary residence.

14. Submit plans for final architectural review to the Planning Division and obtain architectural approval prior to issuance of building permits.

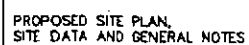
15. Construction activity shall be limited to the hours of 7:00 a.m. to 6:00 p.m. weekdays and 9:00 a.m. to 6:00 p.m. Saturdays for projects within 300 feet of a residential use and shall not be allowed on recognized State and Federal holidays.

16. The project will be required to comply with the City's Urban Runoff Pollution Prevention Program, including best management practice measures for construction and post-construction activity, including reducing runoff to public storm drain facilities from rooftops and paved surfaces.



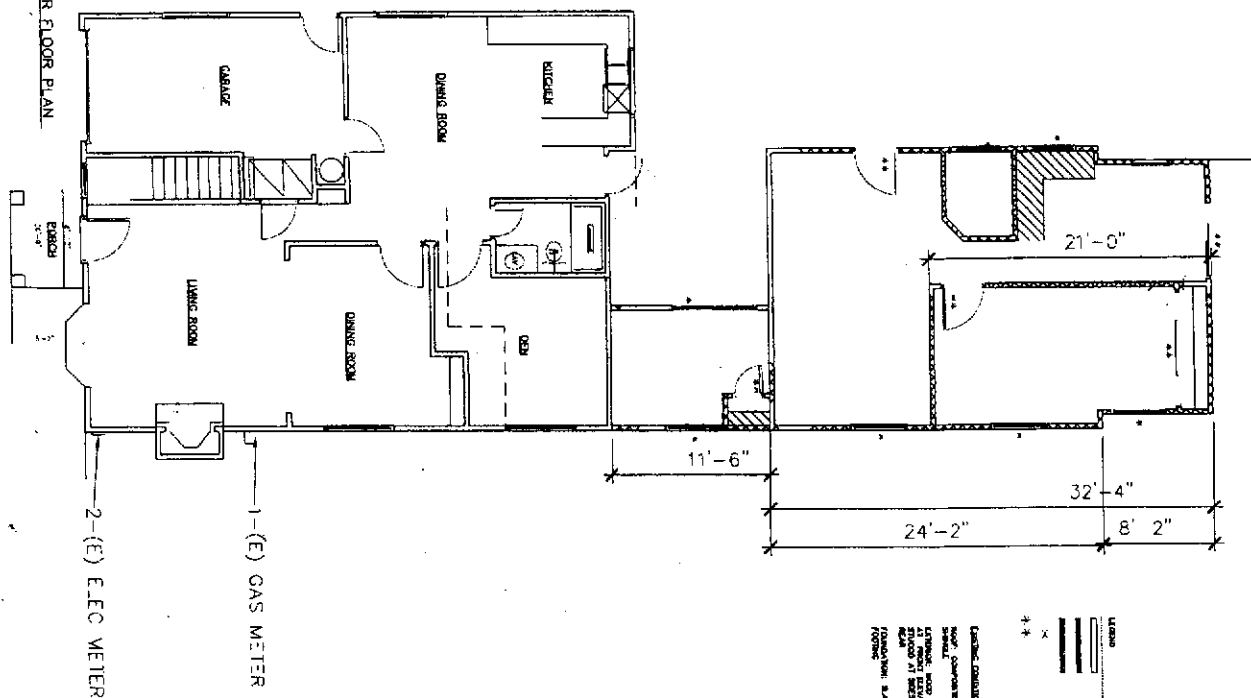
52

Richard J. ...



65-28-C7	65-28-C7
62-15-02	62-15-02
6-75-01	6-75-01
4-75-091	4-75-091

EXISTING LOWER FLOOR PLAN
Scale: 1/8" = 1'-0"



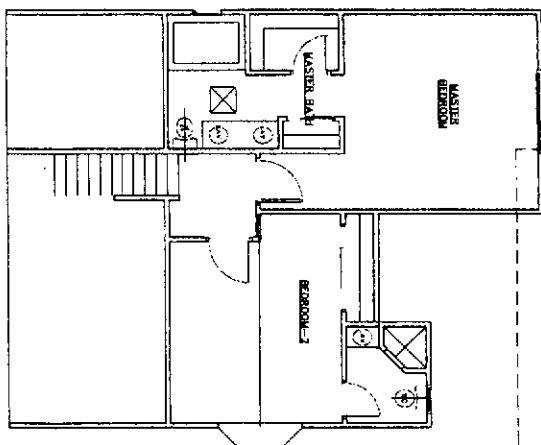
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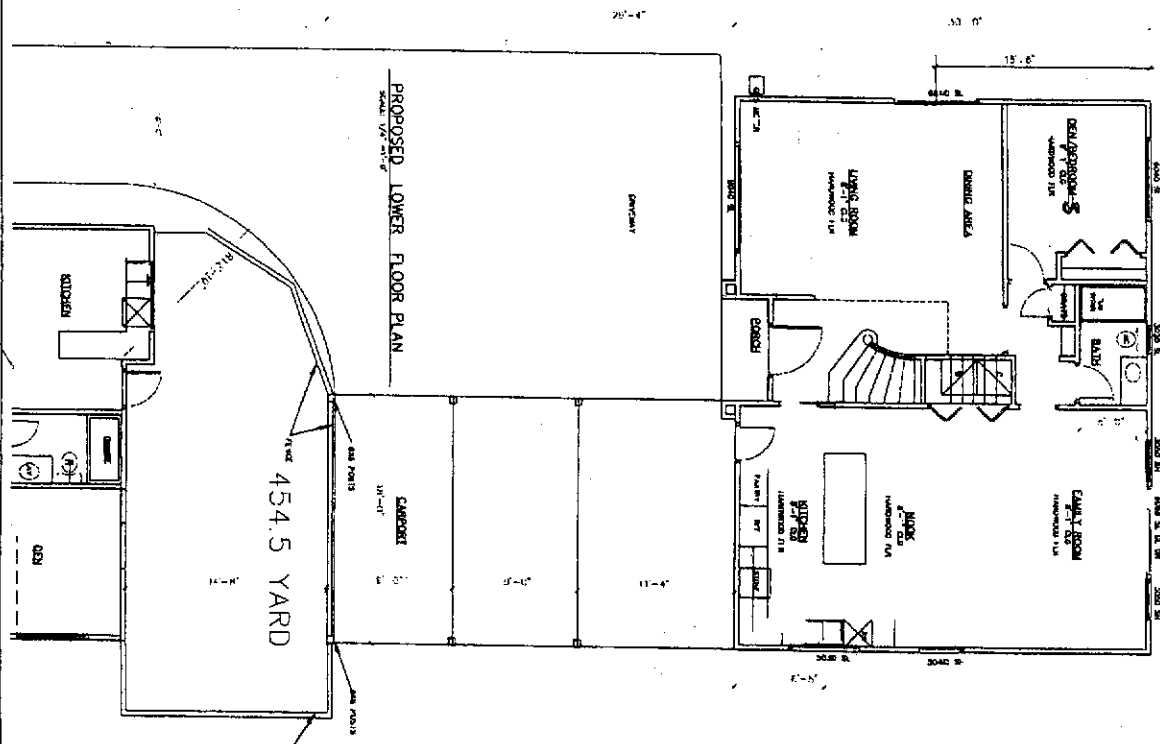
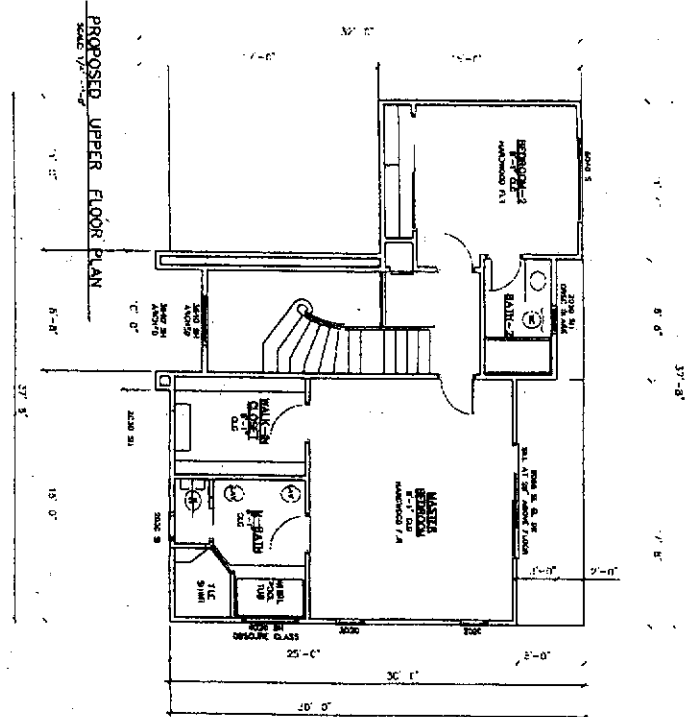
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DEMOLITION NOTES

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EXISTING UPPER FLOOR PLAN
Scale: 1/8" = 1'-0"





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MR. AND MRS. KANUGA
4041 DAVIS ST.
SANTA CLARA, CA. 95054

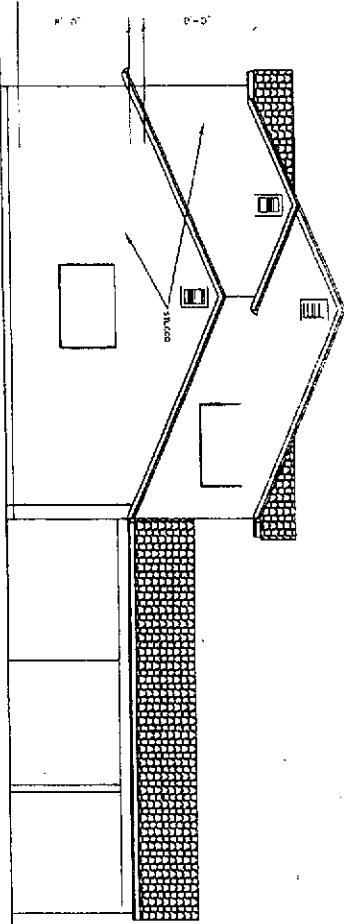
RICHARD HARG
DRAFTING and PLANNING, INC.
943 S. MONTGOMERY LANE, CAMPBELL, CA 95008
(408) 371-7300



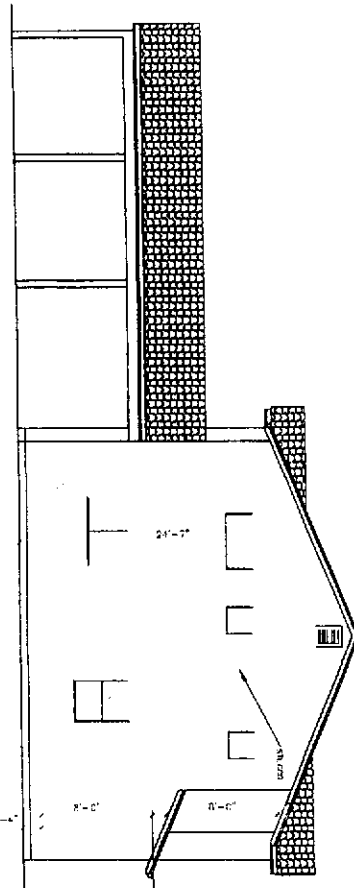
PROPOSED FLOOR PLANS.

03-1N-02	✓
03-2B-C7	✓
3 13 27	✓
8 23 97	✓
3-25-08	✓

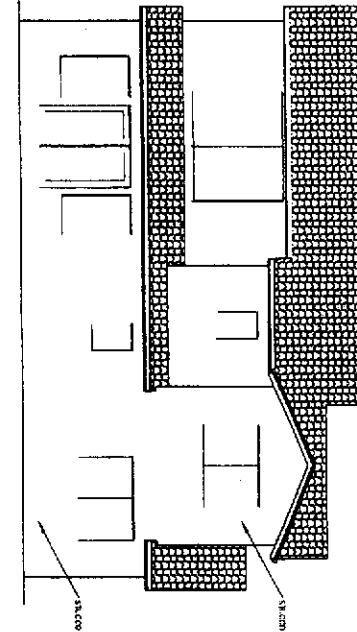
LEFT WEST ELEVATION
1/4" = 1'-0"



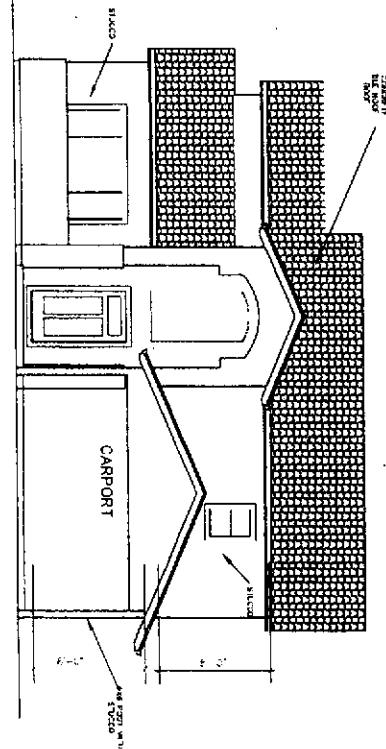
RIGHT EAST ELEVATION
1/4" = 1'-0"



REAR NORTH ELEVATION
1/4" = 1'-0"



FRONT SOUTH ELEVATION
1/4" = 1'-0"



5

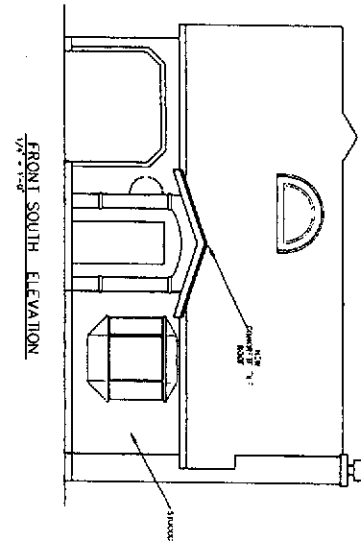
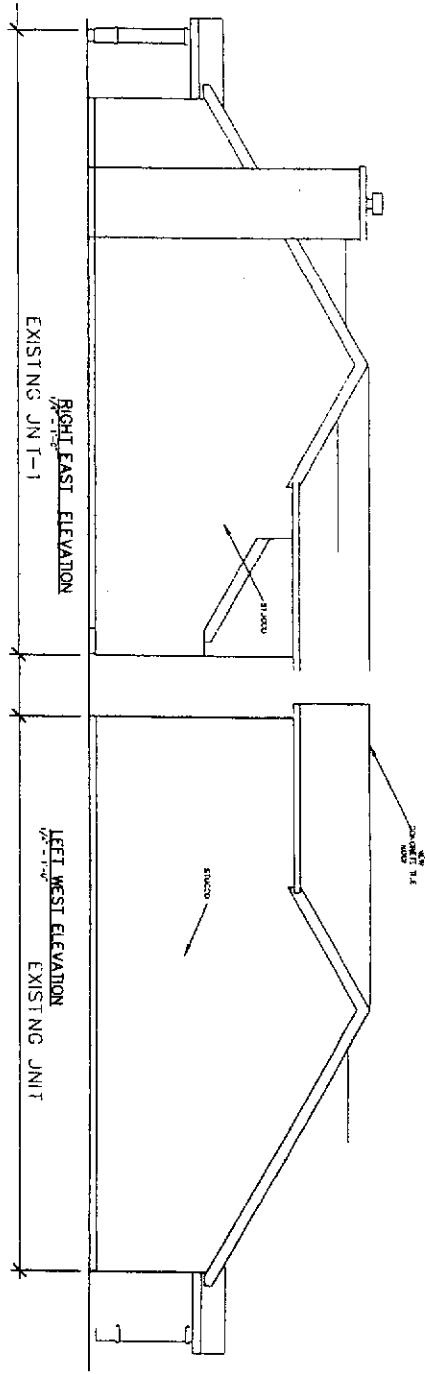
MR. AND MRS. KANUGA
4041 DAVIS ST.
SANTA CLARA, CA. 95054

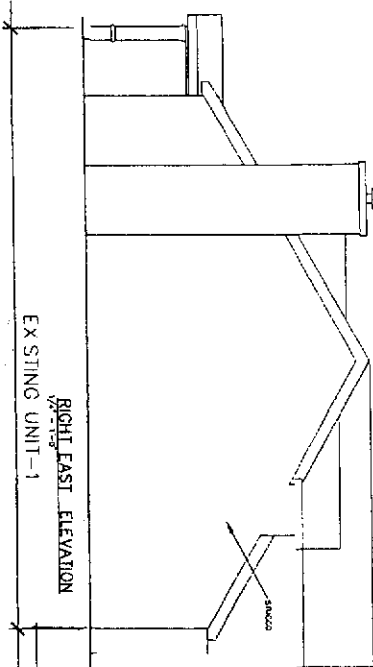
RICHARD HARO
DRAFTING and PLANNING, INC.
843 S. BOWLING GREEN LANE, CAMPBELL, CA. 95008
(408) 371-7200
Richard Haro



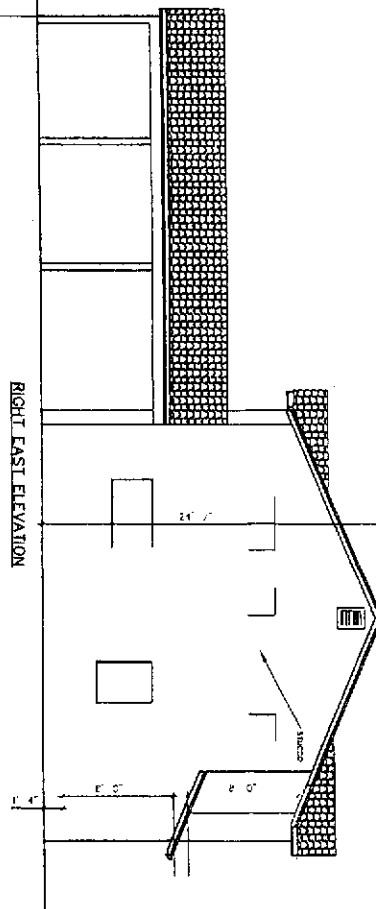
PROPOSED ELEVATIONS

11-12-82	△
01-29-83	△
02-18-83	△
04-28-83	△
5-21-84	△

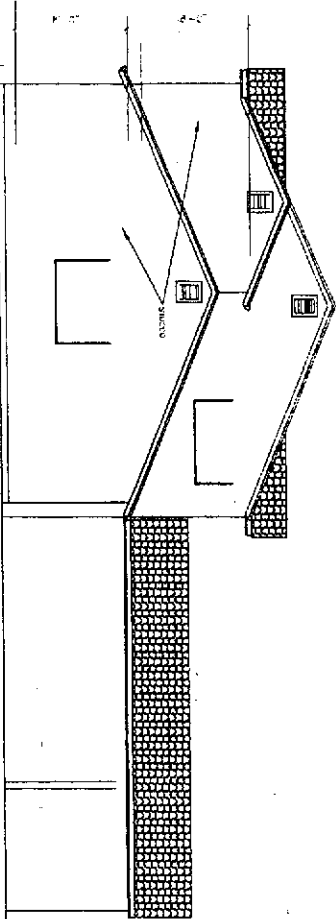




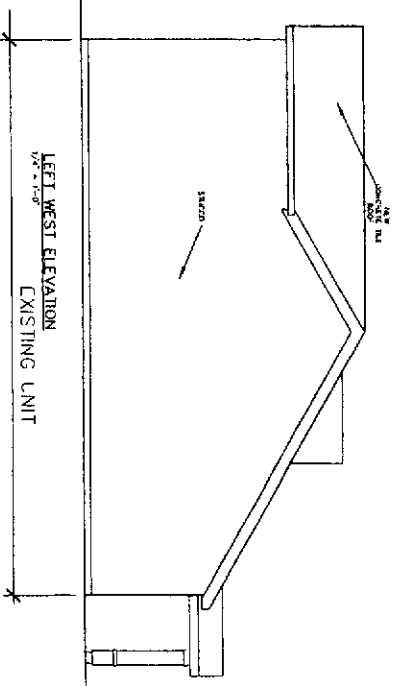
RIGHT EAST ELEVATION
EXISTING UNIT-1



RIGHT EAST ELEVATION



LEFT WEST ELEVATION



LEFT WEST ELEVATION
EXISTING UNIT

01-15-01	01-15-02
01-15-03	01-15-04
01-15-05	01-15-06
01-15-07	01-15-08
01-15-09	01-15-10

PROPOSED ELEVATIONS

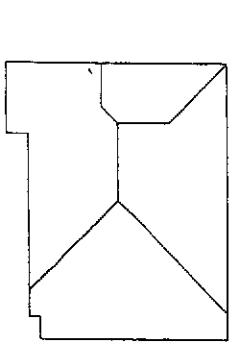


RICHARD HARO
DRAFTING and PLANNING, INC.
543 S. MCLENNAN LANE, CAMPBELL, CA 95008
(408) 271-7300
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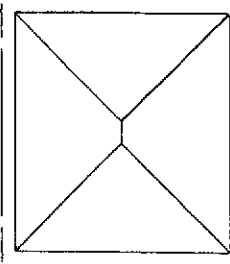
MR. AND MRS. KANUGA
4041 DAVIS ST.
SANTA CLARA, CA. 95054

01-15-01	01-15-02
01-15-03	01-15-04
01-15-05	01-15-06
01-15-07	01-15-08
01-15-09	01-15-10

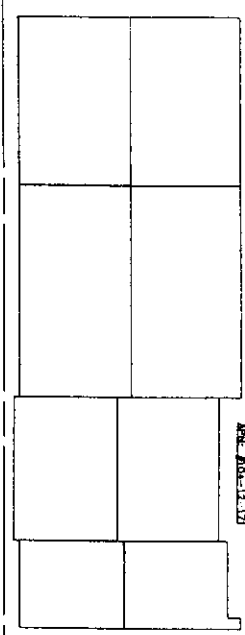
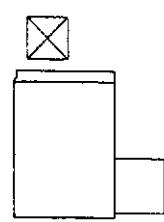
100.00' PROPERTY LINE



4000 BASSITT ST
LOT #22
APN: 804-12-022

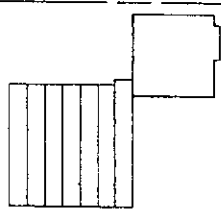


4000 BASSITT ST
LOT #21
APN: 804-12-021

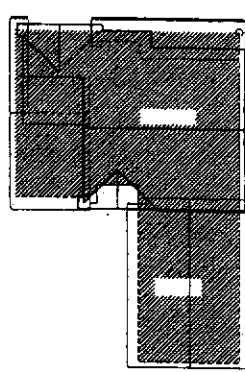
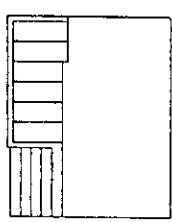


4000 BASSITT ST
LOT #23
APN: 804-12-023

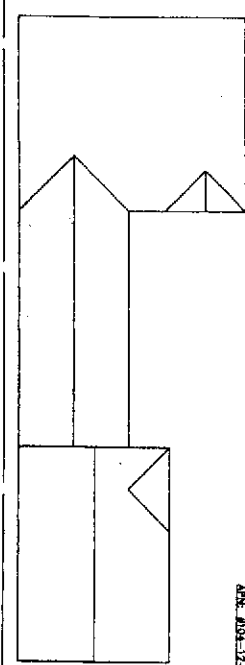
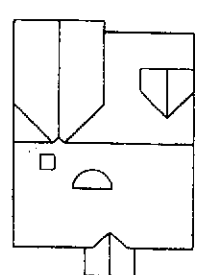
50.00' PROPERTY LINE



4041 DAVIS ST
LOT #80
APN: 804-12-080



PROPOSED IMPROVEMENT LOT
LOT #81
APN: 804-12-028



4041 DAVIS ST
LOT #79
APN: 804-12-079

50.00' PROPERTY LINE 50.00' PROPERTY LINE 50.00' PROPERTY LINE

DAVIS STREET

PROPOSED AERIAL PLAN
SCALE: 1" = 10'-0"



8	MR. AND MRS. KANUGA 4041 DAVIS ST. SANTA CLARA, CA. 95054	RICHARD HARO DRAFTING AND PLANNING, INC. 843 S. MCCLAREN ST., CAMPBELL, CA. 95008 (408) 571-7268 <i>Richard Haro</i>		PROPOSED AERIAL MAP AND ADJACENT PROPERTIES	804-12-020 804-12-021 804-12-022 804-12-023 804-12-024 804-12-025 804-12-026 804-12-027 804-12-028 804-12-029 804-12-030 804-12-031 804-12-032 804-12-033 804-12-034 804-12-035 804-12-036 804-12-037 804-12-038 804-12-039 804-12-040 804-12-041 804-12-042 804-12-043 804-12-044 804-12-045 804-12-046 804-12-047 804-12-048 804-12-049 804-12-050 804-12-051 804-12-052 804-12-053 804-12-054 804-12-055 804-12-056 804-12-057 804-12-058 804-12-059 804-12-060 804-12-061 804-12-062 804-12-063 804-12-064 804-12-065 804-12-066 804-12-067 804-12-068 804-12-069 804-12-070 804-12-071 804-12-072 804-12-073 804-12-074 804-12-075 804-12-076 804-12-077 804-12-078 804-12-079 804-12-080 804-12-081 804-12-082 804-12-083 804-12-084 804-12-085 804-12-086 804-12-087 804-12-088 804-12-089 804-12-090 804-12-091 804-12-092 804-12-093 804-12-094 804-12-095 804-12-096 804-12-097 804-12-098 804-12-099 804-12-100
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2) July 23, 2008 Minute Excerpt

CONTINUED ITEMS

9. File: **PLN2007-06257 (continued from 6/25/08)**
Location: 4041 Davis Street, a 7,500 square foot lot on the east side of Davis Street approximately 200 feet south of Beech Street (APN 104-12-079). Property is zoned R1-6L (Single Family Residential).
Applicant: Robert Fitch
Owner: Mr. and Mrs. Kishin Kanuga
Request: **Rezone** from R1-6L (Single Family Residential) to R2-7L (Duplex); and **Variance** for reduced front yard setback to 15 feet where 20 feet is required and reduced lot width of 50 feet where 65 feet is required for duplex zoning; in conjunction with the demolition of an existing accessory unit and detached garage.
Project Planner: Debby Fernandez, Associate Planner

Summary of Discussion – July 23, 2008

Ms. Painter reviewed the request, noting it was a continuance from the Planning Commission meeting of June 25, 2008, for property owner consideration of an alternate project application. After discussions with staff, the property owner has chosen to move forward with the project application, as submitted and reviewed by the Planning Commission on June 25, 2008. Ms. Painter said staff's recommendation was for the denial of the Rezoning and the Variance for reduced lot width and for approval of the Variance for reduced front yard setback to 15 feet. She indicated that the proposed density for the request is inconsistent with that of the General Plan, and this issue would impact any future request to subdivide the property.

Robert Fitch, representing the property owners, said the project had support from neighbors, and he asked the Commission to recommend the rezoning. He indicated a General Plan amendment would have added significant time and cost, and the owners have no intention of subdividing the lot in the future.

Van Langston asked why a 15 foot front setback was recommended on the narrow lot.

Mr. Fitch said the front porch was constructed by a contractor in violation of the setback requirement, and the owners would have to demolish the porch or request a variance.

Commission Action

The public hearing was closed, and following discussion, Mr. Marine moved to recommend approval of the rezoning from R1-6L (Single Family Residential) to R2-7L (Duplex) and approve variances for a reduced front yard setback to 15 feet where 20 feet is required and for a reduced lot width of 50 feet where 65 feet is required for duplex zoning in conjunction with the demolition of an existing accessory unit and detached garage. Ms. O'Neill seconded the motion, and it was approved (5-0-2, Commissioners Mayer and Barcells absent).



3

Planning Commission Staff Report July 23, 2008
Agenda Item # 9

File: **PLN2007-06257**
Location: 4041 Davis Street, a 7,500 square foot lot on the east side of Davis street approximately 200 feet south of Beech Street (APN: 104-12-079).
Property is zoned R1-6L (Single family Residential)
Applicants: Robert Fitch
Owners: Mr. and Mrs. Kishin Kanuga
Request: **Rezone** from R1-6L (Single Family Residential) to R2-7L (Duplex); and **Variance** for reduced front yard setback to 15 feet where 20 feet is required and reduced lot width of 50 feet where 65 feet is required for duplex zoning; in conjunction with the demolition of an existing accessory unit and detached garage

Project Planner: Debby Fernandez, Associate Planner

Staff Recommendation: Recommend Denial of Rezoning and Variance for lot width; and **Approve Variance** for reduced front yard setback

NOTE: Complete administrative records for this request are available at the Planning Division Office located at 1500 Warburton Avenue, during normal business hours.

PROJECT DESCRIPTION

This project was continued from the Planning Commission meeting of June 25, 2008 for property owner consideration of an alternate project application, following review and discussion of changes in the original plan submittal reviewed by the Planning Commission on March 12, 2008. Per the Commission's direction staff provided the applicant with alternative application types for the property owner's consideration. Alternative project applications include a General Plan Amendment from Single Family Detached (up to eight units per acre) to Single Family Attached (up to 18 units per acre). Such a General Plan Amendment would also require rezoning of the property for consistency with the proposed density of 12 units per acre and any future subdivision of the property to accommodate separate lots for each unit. The existing lot is substandard in width at 50 feet where 65 feet is required for R2-7L properties.

Due to the costs and timelines associated with processing a General Plan Amendment, the property owner chose not to file this type of application. Staff presented an alternative for the applicant to rezone the property from R1-6L to PD without a General Plan Amendment. This alternative would eliminate the need for a variance to reduce the minimum lot width; as a PD is designed to allow flexibility in lot area, width, building coverage, building setbacks and height requirements. This alternative however does not address the proposed project density and its inconsistency with the assigned General Plan density. As a Charter City, zoning and General Plan consistency are not strictly required. Any further subdivision would require consistency.

Following discussion with staff, the property owner has chosen to move forward with the project application, as submitted and reviewed by the Planning Commission on June 25, 2008. The application is for a rezone of the property from R1-6L to R2-7L and variance to reduce the minimum R2-7L lot width requirement of 65 feet to 50 feet in width, to allow construction of a new two-story residence and attached three car carport to the rear of an existing single family residence. The application also includes a variance to reduce the minimum front yard setback requirement of 20 feet, to allow the encroachment of an existing porch at an existing 15-foot

setback.

The remaining information in this staff report is unchanged from the staff report prepared and presented to the Planning Commission on June 25, 2008. No new information is provided. Letters received in March 2008 in support of the project are attached to this staff report.

PRIOR ACTIONS (Prior Commission staff reports/actions follow the current report)

2/15/07: Application received
2/28/07: Application deemed incomplete by Project Clearance Committee
4/30/07: Application deemed complete by Project Clearance Committee
5/23/07: Applicant and Planning Commission deferred the project to the meeting of June 27, 2007 due to the absence of two Commissioners
6/27/07: Project was continued up to 90 days as requested by the Applicant
3/12/08: Planning Commission continued project for redesign
6/25/08: Planning commission continued project for property owner consideration of an alternate application submittal

CURRENT USE / ZONING / GENERAL PLAN

Current Use: Single family Residence

Current Zoning: R1-6L

General Plan Designation: Single Family Detached Residential

The General Plan designates this site for Single Family Detached use at eight dwelling units per acre. The proposed project results in 12 units per acre and is designed for multifamily use. The project is inconsistent with the General Plan designation for the property as it intensifies residential density on the property, creates a multifamily housing arrangement and is not consistent with the street block pattern of the existing neighborhood.

NEARBY PROPERTIES Land Use and Zoning

North: Single Family Residence, Zoned R1-6L

East: Single Family Residence, Zoned R1-6L

South: Duplex, Zoned R2-7L

West: Duplex, Zoned R2-7L

ENVIRONMENTAL DETERMINATION

Categorically exempt per Section 15301 of the CEQA Guidelines.

CONSISTENCY WITH DESIGN GUIDELINES

The proposed project is not consistent with the City of Santa Clara's Design Guidelines for single family residential properties for scale, massing, site orientation and neighborhood compatibility.

The project involves new construction of a 1,918 square foot two-story residence with an attached three car carport of 527 square feet, at the rear portion of an existing lot. A 1,644 square foot two-story residence would remain at the front of the property. The new residence is significantly larger than the primary residence located at the front of the property. The proposed project (residence and carport), in conjunction with the existing single family residence, total 104 feet in length along the length of the 150 feet deep lot that creates visual and privacy impacts to adjacent properties. Site orientation of the new residential structure is inconsistent with new development in the surrounding neighborhood and Agnew Village. New development in the neighborhoods maintains a street orientation of the residence to the streetscape and preserves the appearance of a uniform block pattern.

STAFF REPORT – July 23, 2008

Public Input: *The notice of public hearing for this item was posted within 300 feet of the site and was mailed to property owners within 300 feet. The following comments have been received as*

of the preparation of this report:

- At the time of this staff report there has been no public input submitted in support or opposition to the proposed project.
- The applicant has provided a statement of justification for the request and is attached for review.
- The property owner has provided an updated statement of justification which is attached in the staff report.

Considerations: *The following general factors may be considered in evaluating this request. Some of these factors may represent evidence or facts that may directly support or refute the findings necessary to support this request:*

- A copy of the staff report prepared and reviewed by the Planning Commission for the March 12, 2008 meeting is provided in the Commissioner's packet as background information. Minutes of that meeting are included as part of this staff report.
- The original proposal was for the construction of a four bedroom, three bath, two-story residence with 2,286 square feet of living area and a 587 square-foot attached covered parking structure; in conjunction with the demolition of an existing two-car garage and accessory dwelling. Gross floor area of this prior proposal, including the existing residence to remain, was 4,627 square feet and lot coverage was 40 percent.
- The revised project retains the construction of a two-story residence with an attached three-car covered parking structure to the rear of the existing single family home; in conjunction with the demolition of the existing detached garage and accessory dwelling. Site orientation, building footprint, setbacks, exterior building materials, architectural style and private rear yard areas remain unchanged.
- Changes in the project from the original submittal include a reduction in second floor living area with the removal of a bedroom and laundry room from the floor plan to create a three bedroom, three bath home.
- The redesign eliminates 382 square feet of floor area and alters the building form and elevations. The redesign includes the conversion of the proposed two-car garage and carport to a three car carport. Gross floor area of the revised proposal, including the existing residence to remain, is 4,199 square feet and lot coverage is 39 percent.
- The application is to rezone the property from R1-6L to R2-7L to allow new construction of an additional single family residence on a property with an existing single family home. The project complies with the setback, building height and lot coverage requirements of the R2-7L zoning designation. However, the project does not comply with the minimum lot width requirement of 65 feet for R2-7L zoning or density permitted by the General Plan.
- The existing property has a substandard lot width of 50 feet and has residential density of eight units per acre. The existing accessory dwelling is a permitted use and is in conformance with both the existing R1-6L and Single Family Residential General Plan designation. The proposed project intensifies the residential density to 12 units to the acre.
- The application also includes a variance request for existing conditions resulting from the construction of a front porch addition to the existing residence with a 15 foot front yard setback where 20 feet is required, without City review and approval.

Alternatives to the Proposal: *The following alternative measures or possible changes to the project may achieve the project goals to some degree and/or result in a lesser impact than the project proposal, and may be but are not necessarily recommended by staff.*

- Remain as a single family use with an accessory unit as recommended by Staff, Planning Commission, and City Council in 1995.

FINDINGS REQUIRED TO SUPPORT THE REQUEST

Findings provide a means to link the available evidence with the decision to approve or deny the application. If this request is favorably considered, the preponderance of evidence should

support the following or similar findings to approve the **rezoning** request. The following evidence and facts provide a basis for the recommendation/action on this request:

- a) The existing zoning is inappropriate or inequitable.
- b) The proposed zone change will conserve property values; protect or improve the existing character and stability of the area in question; and will promote the orderly and beneficial development of such area.
- c) The proposed zone change is required by public necessity, public convenience, or the general welfare of the City.

Findings provide a means to link the available evidence with the decision to approve or deny the application. If this request is favorably considered, the preponderance of evidence should support the following or similar findings to approve the **variance** request. The following evidence and facts provide a basis for the recommendation/action on this request:

- a) That there are unusual conditions applying to the land or building which do not generally apply in the same district;
- b) That the granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner;
- c) That the granting of such variance shall not, under the circumstances of this particular case, materially affect adversely the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood of the applicant's property and will not be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and,
- d) That the granting of the variance is in keeping with the purpose and intent of this ordinance:

Evidence/Facts Related to the Required Findings: The following evidence and facts provide a basis for the recommendation/action on this request:

Zoning from R1-6L to R2-7L:

The existing zoning is inappropriate or inequitable.

- In 1995, the Planning Commission and City Council determined that rezoning the property from R1-6L to R2-7L and a variance to reduce the minimum lot width requirement was inappropriate and inequitable, finding that the zoning for a single family residence and accessory dwelling unit is appropriate and maximizes the use of the property.
- The proposal to rezone the property from R1-6L to R2-7L to construct a new single family residence would exceed the allowable density assigned to the property by the General Plan.

The proposed zone change will conserve property values; protect or improve the existing character and stability of the area in question; and will promote the orderly and beneficial development of such area.

- The scale, mass, and site orientation of the proposed two-story residence is not appropriate or compatible with existing development in the surrounding neighborhood and Agnew Village. Privacy to abutting properties could be impacted by this proposal due size and location of structures on the lot. The project disrupts the existing block pattern by placing the new residence at the rear of the lot where other new development is oriented to the street.
- The driveway and turning radius to access on-site covered parking with this proposal pose constraints that could result in potential parking inconveniences and increased street parking.

The proposed zone change is required by public necessity, public convenience, or the general welfare of the City.

- The 7,500 square foot lot has met all zoning requirements for the accessory unit and is appropriate to remain as an existing use, as recommended by the Planning Commission and City Council in 1995.

Variance to reduce minimum lot width requirement:

There are no unusual conditions that apply to the land or building which do not generally apply in the same district in that:

- The property is zoned and is located in a R1-6L zoning district. The property has a lot width of 50 feet consistent with the single family properties along Davis Street.

The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner in that:

- The property is developed with a single family residence and accessory dwelling for the enjoyment and benefit of the property owner. A reduction in lot width would be required to allow the rezoning project request to intensify site development which is not essential for additional enjoyment and benefit of the property owner.

The granting of such variance shall not, under the circumstances of this particular case, materially affect adversely the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood of the applicant's property and will not be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood in that:

- A reduction in lot width would be required to allow redevelopment of the property as proposed. The proposed project would intensify residential density and may adversely impact neighbors as a result of the proposed site layout, parking configuration, and building design.

The granting of the variance is in keeping with the purpose and intent of this ordinance in that:

- The Zoning Ordinance requires a minimum lot width of 65 feet for conversion or new construction of property to and R2-7L designation. The existing lot is substandard in width at 50 feet and therefore granting of a variance would inconsistent with the intent of the Ordinance to promote consistent orderly development.

Variance to reduce minimum front yard setback from 20 to 15 feet:

There are unusual conditions applying to the land or building which do not generally apply in the same district in that:

- There are no unusual conditions applying to the land or building. The residence was constructed with permits at the required front yard setback without the porch that was constructed afterwards without permits.

The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner in that:

- Removal of the front porch would eliminate the architectural entry feature to the residence and result in costs to the property owner.

The granting of such variance shall not, under the circumstances of this particular case, materially affect adversely the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood of the applicant's property and will not be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood in that:

- The existing porch is constructed and provides an aesthetic architectural feature the existing single family home.

The granting of the variance is in keeping with the purpose and intent of this ordinance in that:

- Front porches should be oriented to face the street and are encouraged in the City's Architectural design Guidelines with residential construction.

STAFF RECOMMENDATION – July 23, 2008

Recommend that the Planning Commission make the necessary findings, that the proposed

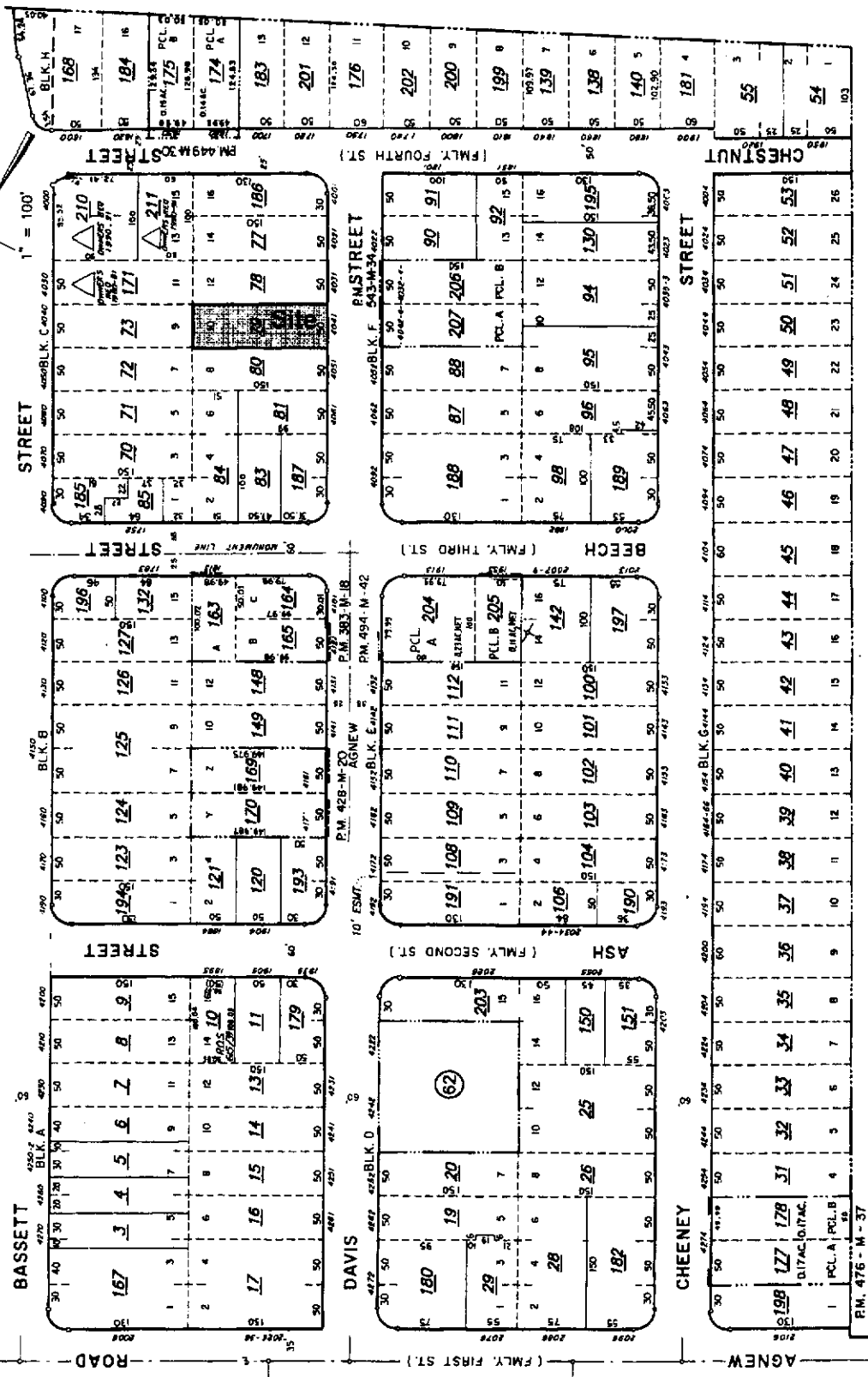
rezoning is not in keeping with the intent of the General Plan for single family detached uses and density; that the structure proposed would have an adverse effect on adjacent properties; that a Variance for reduced lot width and setback is not appropriate for new construction; that based upon the evidence articulated above, and as may be provided through the public hearing, **recommending denial** of the **rezoning** and **variance** request for the reduction of lot width to the City Council; and

Recommend that the Planning Commission make the necessary findings, as articulated above, and **approve** the **variance** request for the 15 feet front setback for the front porch where 20 feet is required.



OFFICE OF COUNTY ASSESSOR - SANTA CLARA COUNTY, CALIFORNIA
S/W LINE LAFAYETTE ST. S. P. T. 154 C. S.B.E. 872-43-88257R PCL 02

1" = 100'



PLN2007-06257

4) Statement of Justification + Correspondence

4041 Davis street:

Justification for Zoning change from R-1 to R-2 and variance. The following are conditions, and reasons that support approval.

Unique conditions to support the rezoning and variance;

This site is located in the old Agnews residential district. This area was originally developed as residential housing to serve the former State Hospital. Unlike much of Santa Clara, this area was never a monolithic single family subdivision, but an area of mixed uses. There are single family home, duplexes and apartments, as well as commercial. Standard zoning "cookie cutter" ordinances, so appropriate for developments of the 60's make little sense when they are imposed on an area created long before zoning districts were imagined. The pattern of development in the Agnews area has a different character than much of Santa Clara. Thus granting of the rezoning and variance would simply permit the owner of 4041 Davis to do what many others have already done in the Agnews area

One example is the requirement for a 70 foot wide lot for an R-2 lot. In the Agnew area, blocks are 300 feet deep, with two 150 foot deep lots. With deeper lots, usual width is only 50 feet, so the entire Agnew area does not conform to "typical" requirements for lots, even though a 50 by 150 lot (7500 square feet), is larger than the 7,000 square foot minimum required for R-2 zoning. Over the years, many duplexes and apartments have been built in Agnews, in this area, a 50 foot width is the standard, not the 70 feet in Santa Clara areas subdivided after World War Two. To deny a duplex request for this area on the basis it fails to meet the "standard" for lot width, would ignore the long history of approval of duplex zoning on "substandard" lots. Thus the history of lots in the Agnew area creates an unusual condition that does not generally apply in the typical R-2 district, in the areas of Santa Clara outside Agnews.

The property owner has owned, and lived on this property since 1987. The City granted approval for converting the existing small single family home to become an accessory unit for a new main structure in the front of the lot. As Mr. Kanuga's family has grown up, his daughter has married and has a child with the expectation of more. As part of their culture (India), it is important that families support older and younger generations. They wish to stay in this neighborhood, a place where the daughter grew up. They wish to provide a place the older generation can help raise the new generation, and the middle generation can take care of her parents in their old age. This

JUN 17 2008

requires construction of a new single family home for the daughter and her family, so a multigenerational complex can be created. With the high cost of housing in the Santa Clara area, it has become much harder for children to live the community they grew up in.

It would seem a simple "solution" to tear down the old rear unit and add to the front house, however, such a development would actually have a greater impact on the community than our proposal. One single 4,000 square foot home would appear more massive from the street, it would also need to provide less parking than the four parking spaces proposed. But the main problem with this "solution", is that mother and adult daughter would have to share one kitchen. They need their own space, close, but not too close.

Impact on adjacent properties:

These two homes will both be single family quality. Approval of this request would upgrade the area, by replacing the existing rear unit, now nearing the end of its lifespan. It was built in 1947, and has suffered serious termite damage. Extensive work must be done to either repair or replace. This is the appropriate time to request replacement with a larger new unit to provide housing for the younger generation. Not allowing this improvement would have an adverse impact on the property owners, preventing them from using their property to sustain both generations.

This proposal would be consistent with the intent of the zoning ordinance and general plan. The City has approved substantial development in this area, including a new development across the street on the basis of the job/housing imbalance in the area. While this is only one unit, it can be seen as an appropriate addition to a lot located in an area where other duplex and condominium developments have been approved. While the overall General Plan indicates a density of only 8 units per acre, this does not reflect the actual conditions of this area. The City has approved duplex and condominium projects across the street, and next door to this property. Hence approval of this request would simply grant benefits to Mr. Kanuga and his family, what several others already enjoy. The design of the proposed project is compatible with the area. There are letters of support from owners in the area, who support the Kanugas in their efforts to improve their property, and upgrade the neighborhood. Approval of this request will permit the Kanuga family to continue to reside in a neighborhood of Santa Clara they have lived in for more than twenty years, and permit their daughter to have a home of her own.

Owner's Comments

My name is Kishin Kanuga. I and my wife, Mohini Kanuga are the joint owners of the subject property - 4041 Davis Street. We have been living on this property ever since we purchased it, way back in 1986.

In 1986, it was only a one-bed room tiny house, measuring about 740 square feet, which was originally built in 1947. At that time we lived there with our school going daughter.

In 1988, City was gracious to give us permission to build a brand new 2-storey decent house, in front of the then existing old house - now called the accessory unit. We have been comfortably living in that new house, ever since.

Now our family has grown bigger and is likely to become still bigger. Our daughter got married and has a child and lives in an apartment away from us and her child's day care is being provided by my wife at our present house.

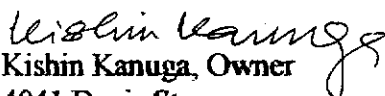
We have applied for constructing another unit on this property for our daughter and her family to live in it privately and comfortably, for our mutual convenience - we taking care of her babies and she taking care of us in case of medical emergencies.

For doing this, we like to demolish the tiny 61-year-old shack, called the accessory unit and build in its place, a comfortable and decent home in conformity with front unit, solely for our daughter to live in it and not for any monetary benefit of renting it or selling it for profit.

Recently, an influential builder has been permitted to build 4 massive 2-storey homes, two each on the same lot size as ours, in the same block, only 150 feet diagonally opposite to our property, to make huge profits.

At present, there are as many as five pairs of 2-storey duplexes or single family homes on a lot size exactly as ours, which is 50 feet by 150 feet, in our small block of 7 lots on each side of the street. Out of these, two duplexes, which are exactly opposite from my house, are not significantly different from my proposed house in orientation, height, and appearance.

Last but not the least, it will be not out of place to mention that my daughter, who has two Masters' degrees, is a dedicated public school Teacher for the last 11 years and is Likely to continue as an Educator for the rest of her life. If this proposal is denied, the cause of AFFOARDABLE HOUSING TO TEACHERS will be defeated.


Kishin Kanuga, Owner
4041 Davis St
Santa Clara, CA 95054

6 March 2008

From: P. J. Vaswani
Cultural Commissioner
City of Santa Clara
Santa Clara, CA 95050

To: Mr. Kevin Riley
Director of Planning and Inspection
City of Santa Clara, CA 95050

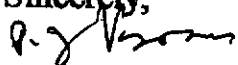
Re: PLN2007-06257 – 4041 Davis St

Dear Mr. Kevin:

I am writing on behalf of Mr. & Mrs. Kanuga, owners of the Property at 4041 Davis, Santa Clara, requesting Rezoning of their property from R1-6L To R2-7L (Duplex).

I am the resident of North side of Santa Clara for more than 30 years and have been responsible for successfully developing and rezoning of SEVERAL properties, on both North and South of Agnew Road, to Duplexes, Triplexes and Multiplexes, which included some on the Davis Street. In fact, way back in 1986, I built, owned and lived at 4031-4033, Davis Street, a duplex next to Kanugas.

In view of the scarcity of land in Santa Clara, building Duplexes and high density 2-storey homes have become a trend, particularly on the North Side of Santa Clara. In view of this situation, I strongly support the Kanuga's' request for rezoning and building a 2-storey home, exclusively for their extended family's use.

Sincerely,

P.J. VASWANI

5 March 2008

From: Ronilo Modesto, Owner
4031-4033 Davis Street
Santa Clara, Ca 95054

To: Planning Department
City Of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

This is in response to Public Hearing Notice – File PLN 2007-06257,
with regard to MR/Mrs. Kanuga's application for rezoning for duplex.

I very strongly support the request of my good next door neighbors-
The Kanugas, for rezoning of their property to duplex, purely for the
purpose of housing their only child (daughter), with her family.

My property on the same size lot is a duplex and so are the two properties
exactly opposite ours, again on the same lot size. In the same block
diagonally opposite, recently two, 2-storey single family houses have been
allowed to be built on the same lot size.

There is therefore no rational reason why The Kanugas should not be
allowed to build a duplex. In view of the scarcity of land, the duplex on
former single family-home lots, have become a trend, rather than an
exception.



Ronilo Modesto

March 4, 2008

The Planning Division
City of Santa Clara
1500 Warburton Ave
Santa Clara, CA 95054

Re: File PLN2007-06257 – Kanugas - 4041 Davis Street

Dear Sirs:

My name is HONG DAO. I am the owner of the property 4051 Davis Street – adjoining The Kanugas, 4041 Davis Street.

When I purchased my house way back in 1988, The Kanugas had just finished the construction of a beautiful 2-storey house on the vacant land in front of their old Tiny house. Looking at that, I was inspired to buy 4051 Davis, because the size and orientation of my property was almost comparable to Kanugas' old house with as much land available to build a duplex like theirs. I thus became a neighbor of a beautiful dwelling, which even after 20 years of existence, STANDS-OUT on the street. I therefore strongly support The Kanuga's application for rezoning to construct a new 2-storey house in the back of their property, in place of the old and small dilapidated dwelling.

This will definitely give an elegant look to the neighborhood.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hong Dao', followed by a horizontal line.

Hong Dao
408-838-7453

5th March, 2008

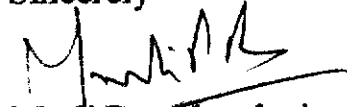
Planning Division
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

RE: PLN2007-06257 – 4041 Davis Street – Owners Kanugas

Sir:

I, Murli Ramchandani, am the owner of the property at 1802 Beech Street. My property is separated by only 50 feet from the Kanugas property. My property is already zoned as R2-7L (Duplex) and so are several others within 500 yards from our properties. Most of these are 2-story dwellings, not too different in appearance and alignment from the proposed Kanugas plans for building a duplex. I therefore strongly support the application of Kanugas, to build a 2-storey duplex on the site of now existing very old and very small, the (so called) Accessory Unit.

Sincerely



Murli Ramchandani
408-988-6643

March 5, 2008

From: Sunil Vaswani
4022 Davis Street,
Santa Clara, CA 95054

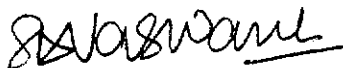
To: City of Santa Clara
Attn: Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050

Ref: PLN2007-06257, Mr. & Mrs. Kishin Kanuga

Dear Sirs:

During the last 7 years or so, the Davis Street, south of Agnew Road, Consisting of 3 blocks – 4000/4100/4200, has undergone a vast change in appearance, with construction of many brand new 2-story homes in replacement of very old single-storey ones on lots of 50' X 150'. There are 9 such next to my house alone and recently four NEW have been added on 4000 block. This has given a very elegant look to the otherwise down-trodden street. The proposal by Kanugas to add yet one more 2-story beautiful dwelling is a very welcome sign and I whole hearted support their application.

Sincerely,



Sunil Vaswani
Owner, 4222 Davis St

10 March 2008

From : Kishin Kanuga, Owner
4041, Davis Street
Santa Clara, CA 95054

To; Hon'ble Members of Planning Commission
City of Santa Clara

Re: PLN2007-06257, Rezoning request R1-6L to R2-7L denied by Staff

Dear Sirs:

I would like to comment on some of the observations/recommendations made by the staff, as per the following:

- 1) The existing accessory unit which I propose to demolish, is nothing but an old shack having only 630 square feet of living space, built 61 years ago, in 1947. The staff did not mention this "fact". It is at the end of its life, and requires replacement.
- 2) The proposed new unit can not be called "massive" by any standards of present day living. It will have 1186 sq ft on first floor and 1100 sq ft on second floor. It will have 4br and 3bth, which is not excessive for a family of four.
- 3) Out of 12 lots on my block - 6 on each side of the street, as many as 5 are already duplexes and again out of these 12, as many as 7 already have two-story houses on them (4022, 4032, 4034, 4041-mine, 4042, 4044, 4072 and 4082). The appearance, orientation and built-up area of my proposed duplex, will be fairly comparable with the existing two-storey units on the block. It also compares reasonably well with the 9 two-storey units in the 4200 block of the Davis Street, just a block away.
- 4) My immediate next door neighbors (4031 and 4051) have strongly supported my proposal and so has the owner of 1802 Beech Street, only 50 feet away from my property line. Besides, I also have two

ENVIRONMENTAL AND REZONING

5) Planning Commission
minutes Excerpts of 3/12/08
+ 6/25/08

11. File: **PLN2007-06257**
Location: 4041 Davis Street, a 7,500 square foot lot on the east side of Davis Street approximately 200 feet south of Beech Street (APN 104-12-079). Property is zoned R1-6L (Single Family Residential).
Applicant: Robert Fitch
Owner: Mr. and Mrs. Kishin Kanuga
Request: **Rezone** from R1-6L (Single Family Residential) to R2-7L (Duplex); and
Variance for reduced front yard setback to 15 feet where 20 feet is required and reduced lot width of 50 feet where 65 feet is required for duplex zoning; in conjunction with the demolition of an existing accessory unit and detached garage.
Project Planner: Jenny Lee, Assistant Planner

Summary of Discussion – March 12, 2008

Carol Anne Painter, City Planner, stated the property owners are seeking approval to rezoning the property from single family zoning to duplex in order to allow greater density with the proposed two-story residence as a second dwelling unit. She noted the lot is deficient in minimum lot width to allow for duplex uses and requires a variance. Visuals and photographs of the property and surrounding neighborhood were shown and it was noted there were several letters in support of the proposal that are attached to the staff report.

The City Planner then noted that there was a previous request for rezoning from R1-6L to R2-7L and variance which was denied by the Planning Commission in 1995, while noting the proposed density is 12 dwelling units per acre, where the General Plan only allows 8 units per acre. Ms. Painter stated staff was not supporting the Rezoning, or the Variance for the reduction in lot width, however was supporting the Variance request for the reduction in the front yard setback to 15 feet for the front porch.

In response to a question, Ms. Painter stated the project was out of scale with the surrounding neighborhood.

Robert Fitch, representing the property owners, stated a revised plan had been submitted with a reduced second story. He stated the rear house is 60 years old and that the property owners would like the second house for extended family, noting that the streetscape would remain unchanged and would upgrade the neighborhood.

Commission Marine then suggested a continuance of up to 90 days for revisions.

Mr. Kanuga then addressed the Commission. She stated Santa Clara is her home and wished to live at her parents place in the rear house. She stated her parents provide family support and noted other large structures in the neighborhood, including a PD development.

Mr. Vaswani then spoke in support of the request for Duplex Zoning.

The public hearing was then closed.

Commission Recommendation and Action – March 12, 2008

It was moved by Commissioner Marine, seconded by Commissioner Stattenfield and unanimously carried to **Continue this item up to 90 days** for revisions.

8:55 p.m. - a 5 minute recess was then taken.

Commission Action – June 25, 2008

It was then moved by Commissioner Fitch, seconded by Commissioner Marine with Chair Champeny and Sarodi dissenting (Barcells excused) to **adopt a Resolution recommending City Council approval of the Mitigated Negative Declaration and Mitigation Monitoring Program, General Plan Amendment #68, and Rezoning.**

A five minute recessed was called at 9:35 pm. The meeting resumed at 9:45 pm.

10. File: **PLN2007-06257**
Location: 4041 Davis Street, a 7,500 square foot lot on the east side of Davis Street approximately 200 feet south of Beech Street (APN 104-12-079). Property is zoned R1-6L (Single Family Residential).
Applicant: Robert Fitch
Owner: Mr. and Mrs. Kishin Kanuga
Request: **Rezone** from R1-6L (Single Family Residential) to R2-7L (Duplex); and **Variance** for reduced front yard setback to 15 feet where 20 feet is required and reduced lot width of 50 feet where 65 feet is required for duplex zoning; in conjunction with the demolition of an existing accessory unit and detached garage.
Project Planner: Debby Fernandez, Associate Planner
Staff Recommendation: **Recommend Denial of Rezoning and Variance** for reduced lot width and;
Approve Variance for front setback at 15 feet

Ms. Fernandez gave an overview of the prior submittal and the revised proposal reducing some of the massing. She recapped the request and stated the property owners are seeking approval to rezone the property from single family zoning to duplex in order to allow greater density with the proposed two-story residence as a second dwelling unit. She noted the lot is deficient in minimum lot width to allow for duplex uses and requires a variance. Visuals and photographs of the property and surrounding neighborhood were shown and it was noted there were several letters in support of the proposal that are attached to the staff report.

In response to a question, Ms. Fernandez stated the project was out of scale with the surrounding neighborhood and was inconsistent with the City's Design Guidelines.

Robert Fitch, representing the property owners, stated a revised plan had been submitted with a reduced second story. He stated the rear house is 60 years old and that the property owners would like the second house for extended family, noting that the streetscape would remain unchanged and would upgrade the neighborhood.

He also noted that there was a previous request for rezoning from R1-6L to R2-7L and variance which was denied by the Planning Commission and City Council in 1995. He noted several other projects in the vicinity with higher densities and smaller lots were supported by the City Council and Commission.

Ms. Fernandez stated staff was not supporting the Rezoning, or the variance for the reduction in lot width for duplex zoning, but was supporting the variance request for the reduction in the front yard setback to 15 feet for the front porch.

The Commission asked about the General Plan consistency. Carol Anne Painter, City Planner, responded about options for an amendment being necessary but staff did not support a General Plan Amendment. She noted the processing options available for the proposal. PD zoning was discussed.

Mr. Kanuga's daughter, then addressed the Commission: She noted the family's need and wanting
City Of Santa Clara Planning Commission Minutes **June 25, 2008 (4)**

to stay in the area. She also noted the varied heights and number of units within the area.

Commissioner Fitch noted that the area has an inconsistent mix of development types. The Commission continued discussion and options for allowing the development. A General Plan Amendment process was then discussed.

The public hearing was then closed.

Commission Recommendation and Action – June 23, 2008

It was moved by Commissioner Fitch, seconded by Commissioner Marine and unanimously carried to **continue** this matter to July 23, 2008 for consideration of the applicant filing a General Plan Amendment. Chair Champeny requested that this item be heard first on the July agenda.

11. File: **PLN2008-07022**
Location: 2221 The Alameda, a 0.42-acre site at the southeast corner of The Alameda and Chapman Court (APN: 230-18-106). Property is zoned CT (Thoroughfare Commercial).
Applicant: Mission City Coffee Roasting Company – Koo Jae W.
Owner: Talia Family Trust
Request: **Amend Use Permit** to allow the addition of amplified music to the Use Permit on Tuesdays through Sundays, and modify business hours at an existing coffee house/café business.
Project Planner: Debby Fernandez, Associate Planner and Marge Sung, Assistant Planner I

Staff Recommendation: Approve, subject to conditions

Ms. Fernandez recapped the previous request heard by the Commission on May 28th. She noted that the current request is for the addition of amplified music to the Use Permit and an extension of days and hours permitted for acoustic and amplified live entertainment to Tuesday through Saturday from 7:00 p.m. to 10:00 p.m. and Sunday from 4:00 p.m. to 8:30 p.m. The total number of seats remains the same with this project proposal at 51 seats, and includes 45 indoor and six outdoor seats. The project does not include construction or alterations to the tenant space or expansion of seating.

She further noted the application also proposes to modify business hours of operations approved for Monday through Thursday from 6:00 a.m. to 10:00 p.m. to 6:00 a.m. to 11:00 p.m. and hours for beer and wine service from 11:00 a.m. to 10:00 p.m. Monday through Thursday, 11:00 a.m. to 11:00 p.m. Saturday and Sunday, and 11:00 a.m. to 10:00 p.m. on Sundays to 11:00 a.m. to 10:00 p.m. Monday through Saturday and 11:00 a.m. to 9:00 p.m. on Sunday.

Ms. Fernandez noted that the applicant held a community meeting, where residents of the surrounding neighborhood were invited to the restaurant, on June 2, 2008. The owner presented the proposed requests and addressed neighborhood concerns. According to the applicant this meeting was attended by 30 residents and issues were positively addressed. She also noted one letter in support and one in opposition.

Jae Koo, owner/operator addressed the Commission and reiterated his request, his work with neighbors, and limiting seating to the 51 seats in compliance with the Use Permit. It was noted that Councilmember Jamie McCloud attended the community meeting and participated in mediation.

Commission Marine expressed concern about live entertainment on Tuesdays and Wednesdays.

The following people spoke on the request Charles Shively, Veronica Rodriguez, David Metsger, Daphne Rahmel, Micheal Laughlin, Kay Pressor, Mathew Holoher, Michael Montoya. All were in support, with Ms. Rodriguez objecting to the entertainment on Tuesdays and Wednesdays.



6) Planning Commission Staff Report – March 12, 2008

Agenda Item # 11

File: PLN2007-06257
Location: 4041 Davis Street, a 7,500 square foot lot, located on the east side of Davis Street, approximately 200 feet south of Beech Street. Property is zoned R1-6L (Single Family Residential) (APN 104-12-079)
Applicant: Robert Fitch
Owner: Mr. & Mrs. Kanuga
Request: **Rezone** of a R1-6L Single-Family Residential to R2-7L Duplex, and **Variance** for reduced front setback to 15 feet where 20 is required, and reduced lot width of 50 feet where 65 feet is required, in conjunction with the construction of a new 2-story duplex unit and demolition of an existing accessory unit and detached garage.
Project Planner: Jenny Lee, Assistant Planner I

Staff Recommendation: **Deny;** Rezone request and Variance for reduced lot width of 50 feet, and
Approve; Variance for front setback at 15 feet for front porch.

PROJECT DESCRIPTION

The owner is seeking approval to rezone the property from a single-family zoning to a duplex in order to allow greater density with the proposed two-story residence as a second dwelling unit, while maintaining the existing two-story primary residence facing the street frontage. Because the lot is deficient in minimum lot width to allow for rezoning for duplex use, a Variance approval must be granted in order for the rezoning process to be considered. A Variance is also required to cover a deficient front setback requirement with an existing front porch at the primary residence, where planning approval and building permits do not exist on record.

PRIOR ACTIONS (Prior Commission staff reports/actions follow the current report)

02/15/07: Application received
02/28/07: Application deemed incomplete by Project Clearance Committee
04/30/07: Application deemed complete by Project Clearance Committee
05/23/07: Applicant & Planning Commission deferred the item to June 27, 2007 meeting due to lack of Commissioner count.
06/27/08: Item was continued up to 90 days as requested by the Applicant.

CURRENT USE / ZONING / GENERAL PLAN

Current Use: Single Family Residence
Current Zoning: R1-6L, single Family Residential
General Plan Designation:

The General Plan designates this site for Single Family Detached uses. Although the request is seen to be consistent with the residential designation, however, the density proposed is intensified. The General Plan also states: "Expansions or infill developments are reviewed on a project-by-project basis to ensure consistency with the neighborhood.....".

NEARBY PROPERTIES Land Use and Zoning

North: Single Family Residence, Zoned R1-6L
East: Single Family Residence, Zoned R1-6L
South: Duplex, Zoned R2-7L
West: Duplex, Zoned R2-7L

ENVIRONMENTAL DETERMINATION

Categorically exempt per Section 15301 of the CEQA Guidelines.

CONSISTENCY WITH DESIGN GUIDELINES

This project is not consistent with the City of Santa Clara's Design Guidelines. By proposing a 2-story residence at the rear portion of the lot, the project is massive in scale in relationship to the adjoining one-story properties. The Architectural Design Guidelines states "Development proposals shall be reviewed for their relative overall size and intensity to neighboring properties and development." ,and it also states "Building height and bulk should be appropriate relative to nearby one and two story single family residences."

PRIOR ACTIONS

STAFF REPORT – June 27, 2007

The Applicant submitted a letter requesting that the project be **continued for up to 90 days** in order to examine revisions possibilities to the project, as well as conflict of schedules.

Commission Action – June 27, 2007

The Commission took action continuing this item for up to 90 days.

PRIOR ACTIONS

STAFF REPORT – May 23, 2007

At the request of the applicant and the lack of Commissioners, the item was continued to the Planning Commission meeting of June 27, 2007. The Applicant submitted a letter requesting that the project be **continued**.

Commission Action – May 23, 2007

The Commission took action to continue this item to the Planning Commission meeting of June 27, 2007, at the request of the applicant, and also due to the presence of only 5 Commissions.

STAFF REPORT - March 12, 2007

Public Input: *The notice of public hearing for this item was posted within 300 feet of the site and was mailed to property owners within 300 feet. The following comments have been received as of the preparation of this report:*

- Applicant's statement of justification is attached.
- Several letters in support of the proposal is attached. These are neighbors from 1802 Beech Street, 4022, 4031 and 4051 Davis Street, as well as Mr. P.J. Vaswani.

Considerations: *The following general factors may be considered in evaluating this request. Some of these factors may represent evidence or facts that may directly support or refute the findings necessary to support this request:*

- The property is located in the Old Agnews Village.
- The lot is 50 feet in width and 150 feet in length totaling 7,500 square feet in size.
- Existing primary residence built in 1987 is a 1,610 square foot, 2-story single-family home with 1-car garage, 3-bedrooms and 3-baths.
- An existing detached 2-car garage at the rear as well as the original house utilized as an accessory unit since 1987 are to be demolished.
- Proposed second unit is a 2,287 square feet, 2-story house, with 4 bedrooms, 3 full-baths floor plan.
- The lot is 50 feet in width, where 65 feet is required under the R2-7L Duplex zoning ordinance section 18.14.050.

- At the time of application submittal, the front porch was found to be added without Planning approval nor building permits. The front porch support posts are located at a 15-foot setback, where 20 feet is required, and must be included as part of the Variance request.
- The slightly reduced interior size of the proposed 2-car garage at 20 feet by 19 feet where 20 feet by 20 feet is required, as well as the proposed one-car carport at 18 feet by 8-feet 6 inches, where 10 feet by 10 feet is required may be handled through an Administrative Zoning Modification approval (within 25% of requirements).
- **Background history:**
 - 8/12/87: Planning Commission approved the original house as an accessory unit, in conjunction with a new 2-story single-family house at street frontage.
 - 8/23/95: Planning Commission denied request for a Variance for lot width reduction in conjunction with a request for rezoning from R1-6L single family to R2-7L Duplex zone. The Proposal was to utilize the existing 2-story house and the single-story accessory unit as 2 separate duplex units.
 - 9/26/95: City Council upheld the Planning Commission and denied the appeal of the Applicant.
- Proposed driveway meets required 12 feet minimum width. However due to a tight layout, all 3 parking stalls would require to back out approximately 70-100 feet in distance to the street, and generally not recommended by City's Traffic Division for safety reasons.
- As a result of high number of previous zoning changes, lot subdivisions, and variance cases on Davis Street and the Old Agnews Village area, the cumulative cases could change the pattern, and intent of the General Plan to maintain the area as R1-6L, Single-family detached uses.

Alternatives to the Proposal: *The following alternative measures or possible changes to the project may achieve the project goals to some degree and/or result in a lesser impact than the project proposal, and may be but are not necessarily recommended by staff.*

- Remain as a single family use with an accessory unit as recommended by Staff, Planning Commission, and City Council in 1995.
- Explore potential redesign proposal of a single-story unit and examine General Plan density concerns in order to avoid adverse effect on adjacent properties.

*Findings provide a means to link the available evidence with the decision to approve or deny the application. If this request is favorably considered, the preponderance of evidence should support the following or similar findings to approve the **rezoning, and variance** request. The following evidence and facts provide a basis for the recommendation/action on this request:*

- a) That there are unusual conditions applying to the land or building which do not generally apply in the same district:
- b) that the granting of the rezoning from R1-6L to R2-7L, and variance for reduced lot width is appropriate; is necessary for the preservation and enjoyment of substantial property rights of the petitioner:
- c) that the granting of such rezoning and variance, under the circumstances of this particular case, will not materially affect adversely the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood of the applicant's property and will not materially detrimental to the public welfare or improvements in said neighborhood:
- d) that the granting of the rezoning and variance is in keeping with the purpose and intent of this ordinance:

Evidence/Facts Related to the Required Findings: *The following evidence and facts provide a basis for the recommendation/action on this request:*

- The previous request for rezoning from R1-6L to R2-7L and variance request by the owner was denied by Planning Commission to allow the existing 2-story home and Accessory Unit as a duplex.

- The scale and mass of the 2-story is not appropriate to adjoining properties of 1-story residences based on the City's Architectural Design Guidelines.
- Privacy to abutting properties could be impacted by this proposal due to substantial increase in both scale and height.
- The proposal of driveway and turning radius constraints for all 3 parking stalls could result in potential parking inconveniences and increased street parking.
- The 7,500 square foot lot has met all zoning requirements for the accessory unit and is appropriate to remain as existing use, which is also previously recommended by Planning Commission and City Council in 1995.
- Single-family detached under the General Plan designation is intended for up to 8 dwelling unit per acre. Because the proposal is approximately 12 dwelling unit per acre, it will exceed the maximum density and create intensification.
- It may be more appropriate for such a proposal to be in the Single Family Attached (Duplex) designation under the General Plan where it is intended for 9-18 dwelling unit per acre.
- Although there are several duplexes on the block, the scale and layouts are different by comparison. For example:
 1. The adjoining duplex to the South (at 4031) is a single-story duplex unit approved in 1986 for rezoning from R1-6L to R2-7L through a revision requirement from a 2-story to a single-story duplex.
 2. The two duplexes (at 4042 & 4032) across the street, have a shared driveway, resulting in a much wider driveway access, as well as the visual bulk of its 2nd story is orientated away from street view.

STAFF RECOMMENDATION – March 12, 2007

Recommend that the Planning Commission make the necessary findings, that the proposed rezoning is not in keeping with the intent of the General Plan for single family detached uses and appropriate density, that the structure proposed would have an adverse effect on adjacent properties, and Variance for reduced lot width and setback is not appropriate, that based upon the evidence articulated above and as may be provided through the public hearing, to **deny** this Rezoning request from R1-6L to R2-7L and Variance request for the reduction of lot width, and to approve the Variance request for the 15 feet front setback for the front porch where 20 feet is required.

RECOMMENDED CONDITIONS OF APPROVAL

In the event that this request is favorably considered, it is recommended that the Planning Commission apply the following recommended conditions of approval. In addition to complying with all applicable codes, regulations, ordinances and resolutions, the following conditions of approval are recommended:

In addition to complying with all applicable codes, regulations, ordinances and resolutions, the following conditions of approval are recommended:

GENERAL

1. If relocation of an existing public facility becomes necessary due to a conflict with the developer's new improvements, then the cost of said relocation shall be borne by the developer.

ENGINEERING

2. Obtain site clearance through Engineering Department prior to issuance of building permit. Site clearance will require payment of applicable development fees. Other requirements may be identified for compliance during the site clearance process.

3. If any work is proposed within the public right-of-way and/or public easement, which is to be performed by the Developer/Owner, the general contractor, and all subcontractors, it shall be included within a **Single Street Opening Permit** issued by the City Engineering Department. Issuance of the Street Opening Permit and payment of all appropriate fees shall be completed prior to commencement of work, and all work under the permit shall be completed prior to issuance of occupancy permit.

ELECTRIC

4. Electric service shall be overhead. See Electric Department Rules and Regulations for available services.
5. Overhead services shall be installed per City of Santa Clara Electric Department standard OH-550 and MS-G7 latest revision.
6. All electric meters and services disconnects shall be grouped at one location, outside of the building or in a utility room accessible directly from the outside. A double hasp locking arrangement shall be provided on the main switchboard door(s). Utility room door(s) shall have a double hasp locking arrangement or a lock box shall be provided. Utility room door(s) shall not be alarmed.
7. Installation of underground trench may be required when construction begins.

WATER

8. All sanitary sewer lateral(s), either proposed or existing, shall be equipped with a clean-out at the property line.
9. Developer is advised that adequate plumbing must be designed and installed for the proposed development and the affected building, or reduced residual water pressure may be experienced due to added water demand.

FIRE

10. In existing residential buildings and in residential buildings that undergo alterations, repairs or additions where a permit is required, smoke alarms may be solely battery operated. Smoke alarms shall be located in accordance with CBC Section 310.9.
11. Address numbers shall be on the building and visible from the public street.

PLANNING AND INSPECTION

12. Obtain required permits and inspections from the Building Official and comply with the conditions thereof.
13. Building permits must be obtained for the current front porch of the primary residence.
14. Submit plans for final architectural review to the Planning Division and obtain architectural approval prior to issuance of building permits.

I:\PLANNING\2008\Project Files Active\PLN2007-06257 4041 Davis St\PLN2007-06257 4041 Davis St.staff rpt 03 12 08.doc

11. File: **PLN2007-06347 and CEQ2007-01040**
Location: 1828-1878 Main Street, three lots with combined total area of 24,393 sq. ft., located on the northwest corner of Main Street and Warburton Avenue (APN 224-24-051, 052 and 053). Property is zoned R1-6L (Single Family Residential), R3-36D (Medium Density Multiple Dwelling), and CN (Neighborhood Commercial)
Applicant: Dixie Baus, Core Affordable Housing, LLC
Owner: Martin Family Trust (Gary Martin)
Request: **General Plan Amendment #67** from Single Family Residence to Medium Density; **Rezone** from R1-6L (Single Family Residential), R3-36D (Medium Density Multiple Dwelling), and CN (Neighborhood Commercial) to PD (R3-36D) to allow construction of a 28-unit senior affordable rental apartment complex & integrated parking garage; and **Initial Study** for Negative Declaration; Density Bonus for Affordable Housing
Project Planner: Erwin Ordonez, Senior Housing Planner
Staff Recommendation: Note and File

Commission Action – May 23, 2007

The Commission took action on this item to **Note and File** the request under Agenda Item #5.

12. File: **PLN2007-06257**
Location: 4041 Davis Street, a 7,500 square foot lot located on the east side of Davis Street, approximately 200 feet south of Beech Street (APN 104-12-079). Property is zoned R1-6L (Single Family Residential).
Applicant: Robert Fitch
Owner: Mr. and Mrs. Kanuga
Request: **Rezone** of a Single Family Residential (R1-6L) to Duplex (R2-7L); and **Variance** for reduced front yard setback to 15 feet where 20 feet is required and reduced lot width to 50 feet where 65 feet is required in conjunction with the construction of a new 2-story duplex unit and demolition of an existing accessory unit and detached garage.
Project Planner: Jenny Lee, Assistant Planner I
Staff Recommendation: Deny

Commission Action – May 23, 2007

The Commission took action on this item to **continue** this item to the Planning Commission meeting of June 27, 2007, at the request of the applicant, due to the presence of only 5 Commissioners.

13. File: **PLN2007-06301**
Location: 1341 Las Palmas Drive, a 6,000 sq. ft. lot on the east side of Las Palmas Drive, approximately 670 ft. south of Madera Avenue (APN: 290-07-028). Property is zoned R-6L (Single Family Residential)
Applicant: Daniela Di Nucci
Owner: Andre Cvitanic
Request: **Variance** to reduce the requirement for covered parking from two spaces to an existing one-car garage in conjunction with the

11. File: **CEQ2006-01036/GPA #65/PLN2006-05960**
Location: 1460 Monroe Street, four lots totaling 19,130 square feet at the southwest corner of El Camino Real and Monroe Street (APNs 269-03-067, 068, 142 and 143). Properties are Zoned CT (Thoroughfare Commercial).
Applicants/Owners: Fred Raia and Brian Wilson
Request: **Adopt Mitigated Negative Declaration;**
General Plan Amendment #65 from Gateway Thoroughfare to Transit Oriented Mixed Uses;
Rezone from CT (Thoroughfare Commercial) to PD (Planned Development); and
Modification to reduce minimum parking requirement from 45 to 43 spaces.
Project Planner: Debby Fernandez, Assistant Planner II

This item was continued under Agenda Item 5. Requests for Withdrawals and Continuances and was continued to July 25, 2007.

12. File: **PLN2007-06257**
Location: 4041 Davis Street, a 7,500 square foot lot located on the east side of Davis Street, approximately 200 feet south of Beech Street (APN 104-12-079). Property is zoned RI-6L (Single Family Residential).
Applicant: Robert Fitch
Owner: Mr. and Mrs. Kanuga
Request: **Rezone** of a Single Family Residential (R1-6L) to Duplex (R2-7L); and **Variance** for reduced front yard setback to 15 feet where 20 feet is required and reduced lot width to 50 feet where 65 feet is required in conjunction with the construction of a new 2-story duplex unit and demolition of an existing accessory unit and detached garage.
Project Planner: Jenny Lee, Assistant Planner I

This item was continued under Agenda Item 5. Requests for Withdrawals and Continuances and was continued up to 90 days.



File: PLN2007-06257
Location: 4041 Davis Street, a 7,500 square foot lot, located on the east side of Davis Street, approximately 200 feet south of Beech Street. Property is zoned R1-6L (Single Family Residential) (APN 104-12-079)
Applicant: Robert Fitch
Owner: Mr. & Mrs. Kanuga
Request: **Rezone** of a R1-6L Single-Family Residential to R2-7L Duplex, and Variance for reduced front setback to 15 feet where 20 is required, and reduced lot width of 50' where 65' is required, in conjunction with the construction of a new 2-story duplex unit and demolition of an existing accessory unit and detached garage.

Project Planner: Jenny Lee, Assistant Planner I

Staff Recommendation: Deny

PROJECT DESCRIPTION

The project site is located in the City's residential area as part of the Old Agnews Village. The property consists of a long and narrow lot with a 2-story home built in 1987 as a primary residence when the original house at the rear was approved as an Accessory Unit (File U.1730). The existing Accessory Unit along with a detached 2-car garage on the premises are proposed to be demolished.

The owner is seeking approval to rezone the property from a single-family zoning to a duplex in order to allow greater density with the proposed two-story residence as a second dwelling unit, while maintaining the existing two-story primary residence facing the street frontage. Because the lot is deficient in minimum lot width to allow for rezoning for duplex use, a Variance approval must be granted in order for the rezoning process to be considered. A Variance is also required to cover a deficient front setback requirement with an existing front porch at the primary residence, where planning approval and building permits do not exist on record.

PRIOR ACTIONS (Prior Commission staff reports/actions follow the current report)

02/15/07: Application received
02/28/07: Application deemed incomplete by Project Clearance Committee
04/30/07: Application deemed complete by Project Clearance Committee

CURRENT USE / ZONING / GENERAL PLAN

Current Use: Single Family Residence
Current Zoning: R1-6L, single Family Residential
General Plan Designation:

The General Plan designates this site for Single Family Detached uses. The request may be seen to be consistent with the residential designation, however, the density proposed is intensified. The General Plan also states: "Expansions or infill developments are reviewed on a project-by-project basis to ensure consistency with the neighborhood.....".

NEARBY PROPERTIES Land Use and Zoning

North: Single Family Residence, Zoned R1-6L

East: Single Family Residence, Zoned R1-6L
South: Duplex, Zoned R2-7L
West: Duplex, Zoned R2-7L

ENVIRONMENTAL DETERMINATION

Categorically exempt per Section 15301 of the CEQA Guidelines.

CONSISTENCY WITH DESIGN GUIDELINES

This project is not consistent with the City of Santa Clara's Design Guidelines. The proposed 2-story residence at the rear portion of the lot is massive in scale. Under the Architectural Design Guidelines 3-A states (1-A) "Second story construction should be set back substantially from the front of the 1-story to reduce the apparent bulk of the 2nd story." The usable rear yard area for each dwelling unit is very tight, and slightly deficient. The Architectural Design Guidelines states: "Open and usable rear yard recreational areas should not be less than 450 sq.ft for each unit on duplex lots".

STAFF REPORT - May 23, 2007

Public Input: *The notice of public hearing for this item was posted within 300 feet of the site and was mailed to property owners within 300 feet. The following comments have been received as of the preparation of this report:*

- At the time of this report, there are no letters of support or opposition from neighbors.
- Applicant's statement of justification is attached.

Considerations: *The following general factors may be considered in evaluating this request. Some of these factors may represent evidence or facts that may directly support or refute the findings necessary to support this request:*

- The lot is 50 feet in width and 150 feet in length totaling 7,500 square feet in size.
- Existing primary residence is a 1,610 square foot, 2-story Single-family home with 1-car garage, 3-bedrooms and 3-baths.
- An existing detached 2-car garage at the rear as well as the original house utilized as an Accessory Unit since 1987 are to be demolished.
- Proposed second unit is a 2,847 square feet, 2-story house, resulting in a 5 bedrooms, 4 full-baths floor plan.
- The lot is 50 feet in width, where 65 feet is required under the R2-7L Duplex zoning ordinance section 18.14.050.
- At the time of application submittal, the front porch was found to be added without Planning approval nor Building permits. The front porch support posts are located at a 15-foot setback, where 20 feet is required, and must be included as part of the Variance request.
- Prior History background:
 - 8/12/87: Planning Commission approved the original house as an Accessory Unit, in conjunction with a new 2-story single-family house at street frontage.
 - 8/23/95: Planning Commission denied request for a Variance for lot width reduction in conjunction with a request for rezoning from R1-6L single family to R2-7L Duplex zone. The Proposal was to utilize existing house and the accessory unit as 2 separate duplex units.
 - 9/26/95: City Council upheld the Planning Commission and denied the appeal of the Applicant.
- Proposed driveway meets required 12 feet minimum width. However due to a tight layout, all 3 parking stalls would require to back out approximately 70-100 feet in distance to the street, and generally not recommended by City's Traffic Division due to safety.

Alternatives to the Proposal: *The following alternative measures or possible changes to the project may achieve the project goals to some degree and/or result in a lesser impact than the*

project proposal, and may be but are not necessarily recommended by staff.

- Remain as a single family use with an Accessory Unit.
- Redesign proposal as a 1-story unit to avoid adverse effect on adjacent properties.

*Findings provide a means to link the available evidence with the decision to approve or deny the application. If this request is favorably considered, the preponderance of evidence should support the following or similar findings to approve the **rezoning, and variance** request. The following evidence and facts provide a basis for the recommendation/action on this request:*

- a) That there are unusual conditions applying to the land or building which do not generally apply in the same district:
- b) that the granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner:
- c) that the granting of such variance shall not, under the circumstances of this particular case, materially affect adversely the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood of the applicant's property and will not be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood:
- d) that the granting of the variance is in keeping with the purpose and intent of this ordinance:

Evidence/Facts Related to the Required Findings: *The following evidence and facts provide a basis for the recommendation/action on this request:*

- Scale and mass of the 2-story is not appropriate to adjoining properties of 1-story residences based on the City's Architectural Design Guidelines.
- Privacy to abutting properties could be impacted by this proposal due to substantial increase in both density and height.
- The proposal of driveway and turning radius constraints for all 3 parking stalls could result in potential parking inconveniences and increased street parking.
- The 7,500 square foot lot has met all zoning requirements for the accessory unit and may be appropriate to remain as existing use.
- Single-family detached under the General Plan designation is intended for up to 8 dwelling unit per acre. Because the proposal is approximately 12 dwelling unit per acre, it could create intensification.
- It may be more appropriate for such a proposal to be in the Single Family Attached (Duplex) designation under the General Plan where it is intended for 9-18 dwelling unit per acre.
- Although there are several duplexes on the block, the scale and layouts are different by comparison. For example:
 1. The adjoining duplex to the South (at 4031), is a 1-story duplex unit approved in 1986 for rezoning from R1-6L to R2-7L through a revision requirement from a 2-story to a 1-story duplex.
 2. The two duplexes (at 4042 & 4032) across the street, have a shared driveway, resulting in a much wider driveway access, as well as the visual bulk of its 2nd story is orientated away from street view.
- As a result of high number of previous zoning changes, lot subdivisions, and Variance cases on Davis Street and the Old Agnews Village area, the cumulative cases could change the pattern, and intent of the General Plan to maintain the area as R1-6L, Single-family detached uses.

STAFF RECOMMENDATION – May 23, 2007

Recommend that the Planning Commission make the necessary findings, that the proposed rezoning is not in keeping with the intent of the General Plan for single family detached uses and appropriate density, that the structure proposed would have an adverse effect on adjacent properties, and Variance for reduced lot width and setback is not appropriate, that based upon

the evidence articulated above and as may be provided through the public hearing, to **deny** this Rezoning and Variance request.

RECOMMENDED CONDITIONS OF APPROVAL

In the event that this request is favorably considered, it is recommended that the Planning Commission apply the following recommended conditions of approval. In addition to complying with all applicable codes, regulations, ordinances and resolutions, the following conditions of approval are recommended:

In addition to complying with all applicable codes, regulations, ordinances and resolutions, the following conditions of approval are recommended:

GENERAL

1. If relocation of an existing public facility becomes necessary due to a conflict with the developer's new improvements, then the cost of said relocation shall be borne by the developer.

ENGINEERING

2. Obtain site clearance through Engineering Department prior to issuance of building permit. Site clearance will require payment of applicable development fees. Other requirements may be identified for compliance during the site clearance process.
3. If any work is proposed within the public right-of-way and/or public easement, which is to be performed by the Developer/Owner, the general contractor, and all subcontractors, it shall be included within a **Single Street Opening Permit** issued by the City Engineering Department. Issuance of the Street Opening Permit and payment of all appropriate fees shall be completed prior to commencement of work, and all work under the permit shall be completed prior to issuance of occupancy permit.

ELECTRIC

4. Electric service shall be overhead. See Electric Department Rules and Regulations for available services.
5. Overhead services shall be installed per City of Santa Clara Electric Department standard OH-550 and MS-G7 latest revision.
6. All electric meters and services disconnects shall be grouped at one location, outside of the building or in a utility room accessible directly from the outside. A double hasp locking arrangement shall be provided on the main switchboard door(s). Utility room door(s) shall have a double hasp locking arrangement or a lock box shall be provided. Utility room door(s) shall not be alarmed.
7. Installation of underground trench may be required when construction begins.

WATER

8. All sanitary sewer lateral(s), either proposed or existing, shall be equipped with a clean-out at the property line.
9. Developer is advised that adequate plumbing must be designed and installed for the proposed development and the affected building, or reduced residual water pressure may be experienced due to added water demand.

FIRE

10. In existing residential buildings and in residential buildings that undergo alterations, repairs or additions where a permit is required, smoke alarms may be solely battery operated. Smoke alarms shall be located in accordance with CBC Section 310.9.
11. Address numbers shall be on the building and visible from the public street.

PLANNING AND INSPECTION

12. Obtain required permits and inspections from the Building Official and comply with the conditions thereof.
13. Submit plans for final architectural review to the Planning Division and obtain architectural approval prior to issuance of building permits.

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CITY OF SANTA CLARA

AGENDA MATERIAL ROUTE SHEET

SUBJECT: Resolution to Rezone-4041 Davis St. Council Date: 8/26/08

CERTIFICATION

The proposed Agenda Report/Resolution
Regarding Re-zoning-4041 Davis St.
has been reviewed and is hereby certified.

PUBLICATION REQUIRED:

The attached Notice/Resolution/Ordinance is to be published _____ time(s) at least _____ days before the scheduled meeting/public hearing/bid opening/etc., which is scheduled for _____, 200__.

AUTHORITY SOURCE FOR PUBLICATION REQUIREMENT:

Federal Codes:

Title _____ U.S.C. § _____
(Titles run 1 through 50)

California Codes:

Code _____ § _____
(i.e., Government, Street and Highway, Public Resources)

Federal Regulations:

Title _____ C.F.R. § _____
(Titles run 1 through 50)

California Regulations:

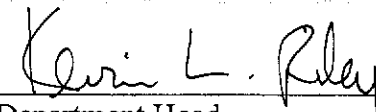
Title _____ California Code of Regulations § _____
(Titles run 1 through 28)

City

City Charter § _____ (i.e., 1310. Public Works Contracts. Notice published at least once at least ten days before bid opening)

City Code § _____

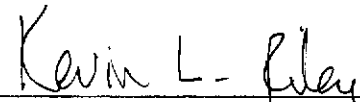
1. As to City Functions, by


Department Head

2. As to Legality, by


City Attorney's Office / CAO Assignment No 08.1163

3. As to Environmental
Impact Requirements, by


Director of Planning and Inspection

4. As to Substance, by


City Manager

Revision Date June 7, 2005